IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTH DAY OF JULY

TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

-

WRIT PETITION No.23759 of 2003

Between:

Kallabathini Prabhakar Rao, S/o. late Hanumaiah,
R/o. H.No.2-2-1, Goddaliguntapalem, Ongole, Prakasam District.

..... PETITIONER

AND

1 The Station House Officer, I Town Police Station, Ongole,

Prakasham District.
2 The Deputy Superintendent of Police, Ongole Prakasham District.
3 The Superintendent of Police, Ongole Prakasham District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in opening a rowdy sheet against him in the month of December, 2002, keeping surveillance on me under the guise of rowdy sheet, calling me to the police station time and again, harassing him for no reason as illegal, arbitrary and unconstitutional apart from being violative of principles of natural justice and contrary to the Police Standing Orders vide PSO-742 and against the Judgments of this Hon'ble Court as well as the Supreme Court reported in 1997 (6) ALD 583 and 1997 (6) ALD 587 and consequently set aside the same.

Counsel for the Petitioner: MR.NANDIGAM KRISHANA RAO

Counsel for the Respondents: GP FOR HOME

The Court made the following:

ORDER:

The writ petition is filed seeking a Writ of Mandamus declaring the action of the respondents in opening rowdy sheet against the petitioner in P.S. Chandrayangutta, Hyderabad as illegal and void.

The petitioner is a businessman and resident of Shaheennagar, Pahadi Shareef, Ranga Reddy District. Before 1994, he was implicated in some criminal cases. Though the said cases were ended in acquittal and no case is pending against the petitioner, the respondent police deliberately opened rowdy sheet against him and he came to know about it in October 2003. It is his case that the respondent police opened the rowdy sheet against him without any valid reason contrary to Order 742 of A.P. Police Standing Orders.

The questions raised in this writ petition are squarely covered by the judgment of this Court in **S. Satyanarayana v. State of A.P.**. Therefore, the writ petition is disposed of directing the respondents to consider the request of the petitioner for closing rowdy sheet following the principles laid down in **Satyanarayana**'s case (supra), which are as under.

i. A mere conviction or convictions cannot be thumb rule for opening history sheet or rowdy sheet though history sheet can be opened even without conviction for the limited purpose of watching a person discreetly.

ii. At the time of opening a history sheet or rowdy sheet a competent officer has to apply mind taking into consideration the social background the proceedings in the criminal trial if a person is convicted and all other relevant material before passing orders for opening history sheet or rowdy sheet.

iii. A history sheet/rowdy sheet is retained for the period of two years only unless it is ordered to be closed by the Superintendent of Police earlier than two years. During the initial period of two years, the history sheeter or rowdy sheeter is entitled to request the concerned police officer to close the history sheet or rowdy sheet which has to be considered by the police officer in an objective manner.

iv. While passing orders for retention of history sheet for another year more, the competent Sub-Divisional Police Officer has to take into consideration the various factors, to wit, surveillance reports, the crime history with reference to the breach of peace of society during the preceding year, the social and political background of the person etc. If there is a preponderance of opinion among the surveillance officers that the person did not come up for any adverse notice and leading a blemishless family life it is a strong circumstance to order for closure of the history sheet or rowdy sheet.

v. When an order is passed by the competent police officer for retention of the history sheet by simply endorsing on the report/letter of the S.H.O. a single line order, that by itself cannot be a ground to continue the rowdy sheet.

vi. Any order passed by the Sub-Divisional Police Officer shall have to be supported by reasons. The reasons need not be communicated but to be recorded.

vii. The orders for opening or retention of history sheet/rowdy sheet are passed under the administrative instructions/guidelines. If such an order is challenged, the competent authority has to place the reasons before the Court which justify retention of history sheet/rowdy sheet. Further, it is always better for the Police Officer to record his own reasons for retention/opening of the history sheet/rowdy sheet.

viii. In the event as mentioned in conclusion 4.7 it is always open to the Court of judicial review to direct the Sub-Divisional Police Officer to reconsider his decision and pass appropriate orders. But whatever be the events in the guise of opening/retention of history sheet a person's liberty, right to privacy and other freedoms under Article 19 of the Constitution of India cannot be infringed under any circumstances.

ix. It is to be remembered that any order of the competent police officer which is not supported by reasons is itself unreasonable and arbitrary and can be termed as mala fide in the sense that it is contrary to the purpose for which the Police Officer is authorised under relevant Police Standing Orders. Hence, if the Court comes to the conclusion that the order of the Sub-Divisional Police Officer is contrary to the purpose for which surveillance is authorised, the action shall be set at naught forthwith on the principle that what is unreasonable and unfair is arbitrary and such arbitrary exercise of power amounts to exercising, the power mala fide.

The petitioner is, however, at liberty to approach the third respondent by filing appropriate representation for closing rowdy sheet, if the same is still continued.

The writ petition is, accordingly, disposed of. No costs

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(V.V.S.RAO, J)

07.07.2005

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To

1 The Commissioner of Pollice Cyberabad, Having office at

Commisoner Office, Cyberabad, Ranga Reddy District.

2 The Commissioner of Pollice Hyderabad having office at

Basheerabagh, Hyderabad.

3 The Asst. Commissioner of Police, Chatrinka Division, Hyderabad.

4 The Deputy Commissioner of Police, South Zone, Hyderabad.

5 Two CCs to the Government Pleader for Home, High Court

Buildings, Hyderabad. (OUT)

6 Two CD Copies.